

1THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS F. CORBIN, ALAN C. HANDERMANN, RICHARD KOTEK,
WILLIAM D. PORTER, JACK A. DELLINGER and EDWARD A. DAVIS

Appeal No. 94-0792
Application No. 07/943,795¹

ON BRIEF

Before GARRIS, PAK and WARREN, Administrative Patent Judges.

PAK, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal from the examiner's refusal to allow claims 1 through 14, which are all of the claims pending in the application. Claim 14 has been amended

¹ Application for patent filed September 11, 1992. According to the appellants, the application is a continuation-in-part of Application No. 07/718,720, filed June 21, 1991, now U.S. Patent No. 5,169,870.

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subsequent to the final rejection. See Supplemental Reply
Brief, Paper No. 15.

Claim 1 is representative of the subject matter on appeal
and reads as follows:

1. A process for recovering , -caprolactam from nylon
6 carpet, comprising:

a) providing a carpet made from nylon 6 fibers and
having a backing containing one or more non-nylon 6 materials
of polypropylene, jute, latex and fillers to a mechanical
separator to prepare scrap containing both nylon 6 and non-
nylon 6 backing materials, and a first auxiliary stream;

b) feeding the scrap from the separator to a
depolymerizing reactor to produce an , -caprolactam containing
distillate and a second auxiliary stream;

c) separating , -caprolactam in the distillate from
other volatiles therein; and

d) purifying the , -caprolactam obtained after
separating so that the , -caprolactam is of sufficient purity
for reuse as a starting material for nylon 6 intended for use
in carpet fiber.

The references relied on by the examiner are:

Norris	4,028,159	Jun. 07,
1977		

Dmitrieva et al. (Dmitrieva), "Regeneration of , -Caprolactam
from Wastes in the Manufacture of Polycaproatamide Fibres and
Yarns," Khimicheskie Volokna, Vol. 17, No. 4, (July-August,
1985),

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pp. 5-12 (hereinafter referred to as "Dmitrieva")².

² The examiner's reference to this reference is to the corresponding translation.

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The only issue presented for review is whether the examiner correctly rejected claims 1 through 14 under 35 U.S.C. § 103 as unpatentable over the combined disclosures of Dmitrieva and Norris.³

OPINION

Our deliberations in this matter have included evaluation and review of the following materials: (1) the instant specification, including Figures 1 through 3, and all of the claims on appeal; (2) appellants' Brief, Reply Brief and Supplemental Reply Brief before the Board; (3) the examiner's Answer and Supplemental Answers; and (4) the prior art references cited and relied on by the examiner.

³ In the final Office action, the examiner rejected claims 1 through 14 under 35 U.S.C. § 103 as unpatentable over the combined disclosures of Dmitrieva and Norris. The examiner, however, did not repeat the § 103 rejection based on the combined disclosures of Dmitrieva and Norris in the Answer. The Answer contained only a new ground of rejection, i.e., an obviousness-type double patenting rejection based on Corbin (parent Application 07/718,720, now U.S. Patent No. 5,169,870), Dmitrieva and Norris. In response to the Reply Brief, the examiner withdrew the obviousness-type double patenting rejection, but reinstated the § 103 rejection based on the combined disclosures of Dmitrieva and Norris in the first Supplemental Answer, Paper No. 14.

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Having carefully considered those materials, we find ourselves in agreement with the position succinctly set forth by appellants in the "argument" section of their Brief, particularly pages 15 and 16 of their Brief. Accordingly, we shall adopt that position as our own. For the reasons stated by appellants in their Brief, we reverse the examiner's decision rejecting claims 1 through 14 under 35 U.S.C. § 103.

REVERSED

BRADLEY R. GARRIS)	
Administrative Patent Judge)	
)	
)	
)	
)	BOARD OF PATENT
CHUNG K. PAK)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
CHARLES F. WARREN)	
Administrative Patent Judge)	

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JENINE GILLIS

Appeal No. 94-0792
Serial No. 07/943,795

Judge PAK

Judge GARRIS

Judge WARREN

Received: 03 Sep 98

Typed: 04 Sep 98

DECISION: REVERSED

Send Reference(s): Yes No
or Translation(s)

Panel Change: Yes No

3-Person Conf. Yes No

Remanded: Yes No

Brief or Heard

Group Art Unit: 1511

Index Sheet-2901 Rejection(s): _____

Acts 2: _____

Palm: _____

Mailed: Updated Monthly Disk (FOIA): _____

Updated Monthly Report: _____

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